

DOCUMENT RESUME

ED 349 714

EC 301 374

TITLE Missouri Surrogate Parent Program. Procedural Manual. Revised.

INSTITUTION Missouri State Dept. of Elementary and Secondary Education, Jefferson City. Div. of Special Education.

PUB DATE Sep 92

NOTE 45p.

PUB TYPE Guides - Non-Classroom Use (055)

EDRS PRICE MF01 Plus Postage. PC Not Available from EDRS.

DESCRIPTORS *Child Advocacy; *Compliance (Legal); *Disabilities; Due Process; Educational Legislation; Elementary Secondary Education; Eligibility; *Legal Responsibility; Parents; Program Development; Program Implementation; Recruitment; Residential Schools; School Districts; State Legislation; State Programs; *State Standards

IDENTIFIERS *Missouri; *Surrogate Parents

ABSTRACT

This manual presents Missouri state guidelines for its surrogate parent program, required by the Individuals with Disabilities Education Act (P.L. 94-142), and currently under development in Missouri. An introductory chapter reviews the program's current status, outlines the surrogate parent role, and notes special considerations for students between ages 18 and 21 and limits of surrogate parent liability. The second chapter looks at responsibilities of the Missouri Department of Elementary and Secondary Education (DSEA) and the state law on surrogate parents. The third chapter details the process of implementing a local surrogate parent program. It addresses: the role of the local education agency (LEA) surrogate parent program coordinator; identifying students who need surrogate parents; defining the terms "parent" and "acting as a parent"; eligibility of students residing in a private facility; LEA responsibility in student identification; and selection, recruitment, and training of surrogate parents. The fourth chapter gives guidelines for assigning surrogate parents to eligible children including appointment of a surrogate parent, steps in the assignment process, and surrogate parent termination. Among 11 appendices are commonly asked questions, a flow chart for surrogate procedures, charts of LEA and DSEA responsibilities and procedures; a statement of surrogate parent rights and responsibilities; the text of the Missouri statute; and four sample forms and letters. (DB)

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MISSOURI Surrogate Parent PROGRAM

PROCEDURAL MANUAL

Special Services Section • Division of Special Education
Missouri Department of Elementary and Secondary Education

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MISSOURI

Surrogate Parent

PROGRAM

PROCEDURAL MANUAL

**Special Services Section • Division of Special Education
Missouri Department of Elementary and Secondary Education**

Revised September 1992

MISSOURI SURROGATE PARENT PROGRAM PROCEDURAL MANUAL

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I. INTRODUCTION

Public Law 94-142, The Individuals with Disabilities Education Act (IDEA), formerly The Education for All Handicapped Children Act of 1975, charges each public education agency with the responsibility to ensure that the rights of children with disabilities are protected. Among the rights spelled out in 94-142 is the provision of a surrogate parent to those children who are eligible. The surrogate parent is assigned to protect the student's rights and to act as the student's advocate in the educational decision-making process.

The Surrogate Parent Program in Missouri

In Missouri, the State Board of Education has the responsibility to establish and maintain procedures for the appointment of surrogate parents. Other responsibilities include the establishment of recruitment, training, and evaluation procedures. See Sections 162.997, 162.998, RSMo. Local Education Agencies and State Board-Operated Programs and Institutions providing educational services to children with disabilities must comply with, all aspects of these procedures. Compliance with regulations include: an awareness of the legal mandate, an understanding of the identification guidelines, effective communication procedures with the Department of Elementary and Secondary Education, effective recruitment and selection of potential surrogate parents, an understanding of the surrogate parent training curriculum, and structured ongoing assistance and evaluation techniques. The Department of Elementary and Secondary Education monitors local compliance with the regulations and assumes final responsibility for the implementation of federal mandates and Missouri's Surrogate Parent Program.

The Surrogate Parent Role

DESE will provide training for surrogate parents to familiarize them with all aspects of the surrogate parent's role. It is important for volunteers to understand that the role of the surrogate parent is to stand in for the parent or guardian of a child who is receiving special education services.

The surrogate parent represents the student with a disability in those circumstances where a parent or guardian would usually be responsible for representing the educational interests of the child with a disability. Surrogate parents may exercise any and all rights guaranteed to parents under P.L. 94-142. Their primary function is to represent the student whenever decisions are being made about the student's educational placement and program. A surrogate parent has no responsibility for physically taking care of the child or for supporting the child financially.

Ideally, according to federal regulations, a surrogate parent should reside in the same general geographical area as the child and be of the same racial, cultural, and linguistic background as the child.

All persons who want to become surrogate parents should be concerned with the rights of children and willing to be assertive in representing the child. A surrogate parent does not need to be highly educated in a specific professional field, but should be a caring person who is able to communicate openly with school personnel and express clearly and constructively ideas and concerns about the special needs of the child and the educational services that are necessary to meet those special needs.

The major responsibilities of a surrogate parent include:

1. Learning to know the child well enough to represent that child's strengths, interests, and needs in educational planning and learning as much as possible about the child's educational history;
2. Signing requests from the education provider for an educational evaluation when appropriate;
3. Participating in IEP meetings, and parent/school conferences;
4. Receiving and reviewing an updated copy of the student's educational records and protecting the confidentiality of such records;
5. Giving written consent for educational placement when appropriate;
6. Monitoring the child's educational placement; and
7. Representing the child in any complaint or due process procedure initiated either by the education provider or the surrogate parent.

Students Between Ages 18 and 21

The role of the surrogate parent is somewhat different when he or she is assigned to a student between the ages of 18 and 21. Unless the student over the age of 18 has been adjudicated incompetent by a court of law, he or she has the right to make decisions concerning his or her own educational program and placement. All students between the ages of 0 and 21 must be afforded all of the procedural safeguards that are specified in the regulations, including the assignment of a surrogate parent if they meet eligibility criteria. Surrogate parents assigned to students who are 18 and over will serve in an advisory capacity rather than a decision-making one. They will be available to the student to assist in making necessary decisions on program and placement, but the student will retain the right to make the final decisions. Young people with disabilities who fall into this group should be notified of the assignment of a surrogate parent to them and the role that the surrogate parent will assume in relation to their educational program. The student can waive their right to a surrogate parent by notifying either the local school district, or DESE.

Surrogate Parent Liability

Some concerns have been expressed about the possibility of a surrogate parent being held liable for educational decisions. When the student reaches the age of majority could that student hold the surrogate parent liable for not representing him or her appropriately? Could an "unavailable" parent later reappear and hold the surrogate parent responsible for making inappropriate decisions? The state law on surrogate parents provides a response to those concerns:

The person appointed to act as a surrogate parent shall be immune from liability for any civil damage arising from any act or omission in representing the child in any decision related to the child's education. This immunity shall not apply to intentional conduct, wanton and willful conduct or gross negligence. Section 162.999 of the Revised Statutes of Missouri.

It should also be remembered that the surrogate parent serves as a member of a team or committee when many educational decisions are made. Decisions then, are made by the team as a whole, not by any individual team member.

II. THE FEDERAL MANDATE AND MISSOURI LAW

Federal and state special education laws envision a partnership between parents and educational providers in developing, implementing, and monitoring an individualized education program tailored to the specific needs of the child with a disability. This partnership must be preserved in order to protect the rights of children. The role of the surrogate parent is designed so as to preserve this partnership for children who do not have parents available to carry out this important function.

Public Law 94-142, the federal law that mandates the appointment of surrogate parents, requires that there be procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including procedures for the assignment of an individual (who shall not be an employee of the state agency, and who shall not be an employee of a public agency involved in the education or care of the child) to act as a surrogate for the parents or guardian.

DESE's Responsibility Under P.L. 94-142

To ensure the protection of rights of children with disabilities, pursuant to Public Law 94-142, the Missouri Department of Elementary and Secondary Education will:

1. Maintain a registry of persons, who are willing to be duly appointed to act as surrogate parents in connection with a child's educational placement and program when the child's parent is unknown, unavailable as defined by Missouri statute, or when the child is a ward of the state;
2. Provide training to persons appointed to act as a surrogate parent concerning applicable special education regulations and processes so that such persons may obtain the knowledge and skills necessary for adequate representation of children; and
3. Assure that local school systems will ensure that the rights of a child are protected by:
(a) exercising due diligence in locating the apparently unknown or unavailable parent and utilizing the assistance of other public agencies; (b) assisting DESE in DESE's appointment of a surrogate parent for any child in the legal custody of, or who is ward of, a child-placing agency licensed by the Department of Social Services; and (c) providing notices and information in accordance with Missouri Statutes and, in particular, providing such information about the child to the surrogate parent as may be necessary to enable him or her to represent the child's best educational interests.

Surrogate Parents and Missouri Statutes

Section 162.999 of the Revised Statutes of Missouri, the state law on surrogate parents, provides, in part, that:

1. Any person who is appointed to act as a surrogate parent shall:

- a. Be at least eighteen years of age;
 - b. Be free of any interest that may conflict with the interests of the child represented;
and
 - c. Not be an employee of the State Board of Education or any governmental entity
having responsibility for the education or care of the child.
2. No person shall be appointed to act as a surrogate parent for a student with a disability
unless he has completed the requisite education and training to be provided by the State
Board of Education.

See Appendix for complete text of Section 162.999, RSMo.

**III. THE PROCESS FOR
IMPLEMENTING A LOCAL
SURROGATE PARENT PROGRAM**

The Missouri Department of Elementary and Secondary Education (DESE)/ Division of Special Education, requires Local Education Agencies (LEAs) and State Board-Supported Programs to develop written policies and procedures which include a method for identifying children who are eligible for the assignment of surrogate parents, including a plan for determining when a child's parents are unknown or unavailable.

LEA Surrogate Parent Program Coordinator

Each LEA will designate an individual who will be responsible for the surrogate parent program in their district. Suggestions for staff members to assume this role include a district's Director of Special Education, Director of Pupil Personnel, or Director of Special Services. If the LEA does not specifically designate a Surrogate Parent Program Coordinator, DESE will assume that the LEA's Special Education contact person will serve in that capacity.

Identifying Students Who Need Surrogate Parents

The following guidelines are offered for determining if a child is eligible for the assignment of a surrogate parent:

1. The student must have a disability and be in need of special education services or must have been referred for evaluation and awaiting determination of eligibility for special education services;
2. The student must be between the ages of 0 to 21;
3. The student must be without a parent to represent him or her when decisions are being made about special education needs. P.L. 94-142 and Section 162.997, RSMo list three groups of children who fall into this category:
 - a. Children who are considered a ward of the state when the state has assumed the legal responsibility for making decisions concerning the child's education;
 - b. Children whose parents are considered to be unknown if their identity cannot be ascertained from the child's records; and
 - c. Children whose parents are considered to be unavailable because they cannot be located even after a "reasonable effort" on the part of the education provider or agency responsible for the child.

If a student with disabilities satisfies these criteria, then the local educational agency must complete a Determination of Need for Surrogate Parent form, and a surrogate parent must be appointed by DESE to him or her. Children who need surrogate parents may reside in nursing homes, group homes, state hospitals, or correctional facilities.

Defining the Term "Parent"

To determine if a student is eligible for an appointment of a surrogate parent, the definitions of "parent" and the term "acting as parent" as they are interpreted in federal regulations, should be examined:

As used in this part, the term "parent" means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with Reg. 300.514. The term does not include the State if the child is a ward of the State. 34 C.F.R. 300.10.

By definition, a guardian is someone who has been granted legal custody of a child. If a child is represented by someone fulfilling one of the above roles, no surrogate parent is needed.

Defining the Term "Acting as a Parent"

The term "person acting as parent of a child" refers to relatives of the child or private individuals allowed to act as parents of a child by the child's natural parents or guardians. For example, a grandparent, neighbor, governess, friend, or private individual caring for the child with the explicit or tacit approval of the child's natural parent or guardian would qualify as "a person acting as a parent of a child." If a child is represented by such a person, no surrogate parent is needed. DAS Bulletin No. 62 203:10 (Division of Assistance to States, Bureau of Education for the Handicapped).

NOTE: THE TERM "ACTING AS PARENT" HAS BEEN INTERPRETED IN MISSOURI TO INCLUDE FOSTER PARENTS.

Eligibility of Students Residing in a Private Facility

To determine whether a student who is a resident of a private facility is eligible for the assignment of a surrogate parent, consider the following:

1. Is the child a ward of the state? Every child who is a ward of the state must be assigned a surrogate parent, unless they have been appointed a guardian with the power to make educational decisions. However, if that guardian is an employee or agent of the state, a surrogate parent must be assigned to the child.
2. Is the child a ward of the private group home? Parents may make court arrangements for the group home administrator to be guardian of their child. If, through these arrangements, the child does not become a ward of the state, but rather a ward of the private facility, then he or she is not eligible for the assignment of a surrogate parent. The administrator of the facility would be considered a "parent" under the definition in P.L. 94-142. See 34 C.F.R. 300.10.

LEA Responsibility in Student Identification

It is the local education provider that begins the process of determining which children are eligible for the appointment of a surrogate parent, including children from other areas of the state who may be placed in residential facilities in their local district. Initially, this will require a survey of enrollment records of children who are currently receiving special education services to ascertain who has participated in educational decision-making in the past. Assistance in identifying eligible children can be sought from the care facility or agency responsible for the child, such as the Department of Social Services, Department of Corrections, or the Department of Mental Health.

Records about the child that are kept by other agencies can serve as documentation of the child's status in relation to the need for a surrogate parent. The final determination concerning sufficiency of evidence and eligibility is made by DESE, Division of Special Education.

Following the initial effort, there should be an ongoing procedure for identifying students who need surrogate parents at the time of their referral into the special education system. This can take place by monitoring parent/guardian participation when permission for evaluation is solicited. A method to indicate the child's need for a surrogate parent could be part of the information gathered at the time of referral. Contact with the care facility or agency responsible for the child could then confirm the child's status. The identification of children who are eligible for surrogate parents can also be part of the LEA's or state-operated program's Child Find Activities. It has also proven helpful to educate various school personnel concerning surrogate parent policies and procedures.

Selection, Recruitment, and Training of Surrogate Parents

A. Selection of Surrogate Parents

Each local education provider has the responsibility for assisting in recruitment, participation in training efforts, and assisting in the appointment of surrogate parents. Persons who are recruited to serve as surrogate parents must demonstrate certain basic qualifications:

1. The volunteer must be at least 18 years old.
2. The volunteer must be committed to becoming familiar with the child's educational needs and with the special education system of the local school in which the child is served.
3. The volunteer must have knowledge and skills that ensure adequate representation of the child. DESE has the responsibility for training and certifying these educational advocates.
4. The volunteer may not be an employee of a public agency which provides care or education to the specific child assigned to the volunteer.
5. The volunteer may not have interests that conflict with the interests of the child he or she represents.

Defining "Conflict of Interest"

Conflict of interest has been explained as follows:

A person has a conflict of interest if he or she holds a job or other position (i.e., school board member) that might restrict or bias his or her ability to advocate for all of the services needed by the child. One example would be an employee of an agency that would have to pay for some or all of the services a child might need. A surrogate parent must be free from institutional bias regarding the education of the child and from the possibility of administrative retaliation for the faithful execution of his or her rights and duties as a surrogate parent. Kirk 2 EHLR p. 211:243 (EHA 1980).

Pursuant to Missouri statute, surrogate parents may not be employees of public agencies involved in the education or care of the child with disabilities. Nor may the surrogate parent be an employee of the State Education Agency.

Similarly, according to the Office of Special Education Programs, U.S. Department of Education (OSEP), an employee of a private care facility may have a conflict of interest as a surrogate parent if he or she is put in the position of advocating an educational program for a child which could result in a financial loss to the facility for which he or she works. Kirk, 2 EHLR p. 211:243 (1980). This conflict of interest analysis carries over to group home employees, too. Where a state contracts with a group home, the group home staff would be prohibited from serving as surrogate parents if their job would require them to balance the interests of the child with the interests of their employer. Whorton, 2 EHLR p. 211:299 (1983).

B. Recruitment of Surrogate Parents

Students who may need surrogate parents include, but are not limited to, children with disabilities who live in nursing homes, group homes, state hospitals, and correctional facilities. For these students, volunteers must be recruited from the community and trained to serve as surrogate parents for them. It is recommended that the education provider utilize an outside group to assist in recruiting these community volunteers in order to aid in the compilation of a registry of volunteers who are willing to serve as surrogate parents. Under the direction of the education provider, the recruiting group would be available both for the initial recruitment of volunteers and the provision of ongoing recruiting assistance.

Suggested Recruitment Sources

The following list of community resources is offered as a source both for a recruiting group and for volunteers:

1. Parents of other children with disabilities
2. Faculty and student groups at local colleges
3. United Way volunteer recruitment programs

4. Foster parent groups
5. Local mental health associations
6. Agency personnel from other special education providers in the area
7. Local chapters of Associations for Retarded Citizens
8. The area United Religious Community office
9. Organizations for retired clergy or retired teachers
10. American Association of University Women
11. Local chapters of various associations for children:
 - Council for Exceptional Children
 - Easter Seal Society
 - Epilepsy Foundation
 - Learning Disabilities Association
 - Local PTA or PTO groups
 - Missouri Parents Act (MPACT)
 - National Association for the Education of Young Children
 - National Paraplegia Foundation
 - Organization for Visually Impaired Children
 - Parent Advisory Council members of local special education providers in the area
 - United Cerebral Palsy
 - Spina Bifida Association
 - Tuberculosis League
12. League of Women Voters
13. Kiwanis and Jaycees
14. Local advocacy groups
15. Local bar associations

Once volunteers have been recruited, a registry of names is filed. The local education provider is then responsible for helping DESE with screening, participating in training, and assisting in the assignment of surrogate parents.

C. Training of Surrogate Parents

It is the responsibility of DESE, with assistance by the LEA and State Board-Operated Program or Facility, to ensure that surrogate parents have the knowledge and skills necessary to appropriately represent the educational interests of the children to whom they are assigned. As part of the technical assistance package, training workshops and written materials for volunteers will be provided by DESE. The "Missouri Surrogate Parent Manual" has been developed and will be used for training purposes. Each newly trained surrogate parent receives a copy of this manual and is encouraged to use it for ongoing reference and support.

Training and consultation for volunteers must be an ongoing effort as the needs of individual surrogate parents dictate. Surrogate parents should be included in any in-service training offered to other parents of children with disabilities through the LEA or State Board-Operated Program. Agency personnel will need to make a special effort to send to surrogate parents any pertinent communication that is usually sent home to a parent by way of the child; this includes newsletters, bulletins, announcements of school meetings, or parent conferences, et cetera.

**IV. ASSIGNING SURROGATE PARENTS
TO ELIGIBLE CHILDREN**

Appointment of a Surrogate Parent

After a volunteer has been screened for eligibility and has participated in training, it is the responsibility of DESE to write a letter formally appointing the surrogate parent to represent a student with a disability. This notice of appointment provides the name of the student, the student's current educational program, and the local school district responsible for the child. A copy of the notice of appointment should be kept in the student's educational records for purposes of determining access to the records. A copy should also be sent to the agency responsible for the child. If appropriate, the LEA should also notify the child of the surrogate parent's appointment and the role that the volunteer will play in his or her educational program.

As far as is practical, a surrogate parent should be culturally matched with the child to whom he or she is assigned. In instances where this is not possible, special attention should be given to ensuring that the surrogate parent who is appointed is sensitive to factors in the child's background that might affect the child's performance during evaluation or in the classroom. It is recommended that no more than three students be assigned to any one surrogate parent; however, exceptions can be made by DESE.

A surrogate parent should be assigned to an eligible student with a disability at the time of referral for an educational evaluation.

The local education provider is responsible for monitoring the activities of surrogate parents on a regular basis. By regularly communicating with surrogate parents and with other agency personnel who come into contact with them, the individual responsible for monitoring surrogate parents will be able to determine their needs for additional training and assistance. At the end of each school year, a recommendation should be made for either continuation or termination of each surrogate parent appointment. This recommendation is made by completion of an Evaluation form available from DESE.

Assignment Process Steps

The following steps will be utilized in assigning volunteers as surrogate parents:

1. Recruitment of volunteers;
2. Screening of candidates to determine eligibility and interest;
3. Surrogate parent training;
4. Appointment of the surrogate parent
 - a. To a student currently receiving special education services;
 - b. To a student who has recently been referred for an educational evaluation; and

5. Monitoring of student's progress in his or her educational program.

Surrogate Parent Termination

A surrogate parent will be notified in writing that their appointment has been discontinued. This could occur in various situations, including but not limited to when any one of the following occurs:

1. Based upon the results of the educational evaluation the student does not qualify for special education services;
2. The student's parent or guardian reappears to represent him or her, or wardship is terminated;
3. The student is no longer in need of special education services;
4. The student reaches the age of 21 or has graduated; or
5. The surrogate parent fails to fulfill their responsibilities as defined by state and federal regulations.

V. APPENDIX

Commonly Asked Questions

When Does a Student Need a Surrogate Parent?

The student must either be referred or be eligible for receiving special education and related services. Second, the student must either be a ward of the state; have no identified parent, guardian, or someone acting as a parent; or have parents that the public agency cannot locate after reasonable efforts.

What Is Meant by the Phrase "Acting as a Parent?"

In determining a student's eligibility for a surrogate parent, the term "acting as a parent" refers to any adult such as a grandparent, aunt, or family friend who is serving as a parent for the child.

Must There be a Legal Statement From the Natural Parent Designating an Individual to Act as a Parent for Their Child in Their Absence?

There does not need to be explicit approval from the parent recognizing a particular individual to act as a parent for their child. Parental approval may be merely implied through their actions or statements.

What Does a District Do When a Student Has Someone "Acting" in the Parental Role?

According to federal regulations, if a person such as an aunt or grandparent is "acting as a parent of a child," appointment of a surrogate is unnecessary.

It should be noted that if a child's natural parents are not available, but a court-appointed guardian or conservator has been named by court action, the child would not need a surrogate parent. Only when the guardian or conservator is a state official (as when the child is a ward of the State) must a surrogate be named.

Does a Student in the Care of a Foster Parent Also Need to be Appointed a Surrogate Parent?

No, in Missouri, a foster parent is recognized under the definition "acting as a parent."

How Many Students Can be Served by One Surrogate Parent?

There are no formal limits on the number of students who may be served by each surrogate parent.

Who Within the School District is Actually Responsible for Naming Surrogate Parents?

Although local school districts are responsible for identifying individuals to serve as surrogate parents, appointment is through the Missouri Department of Elementary and Secondary Education, Division of Special Education.

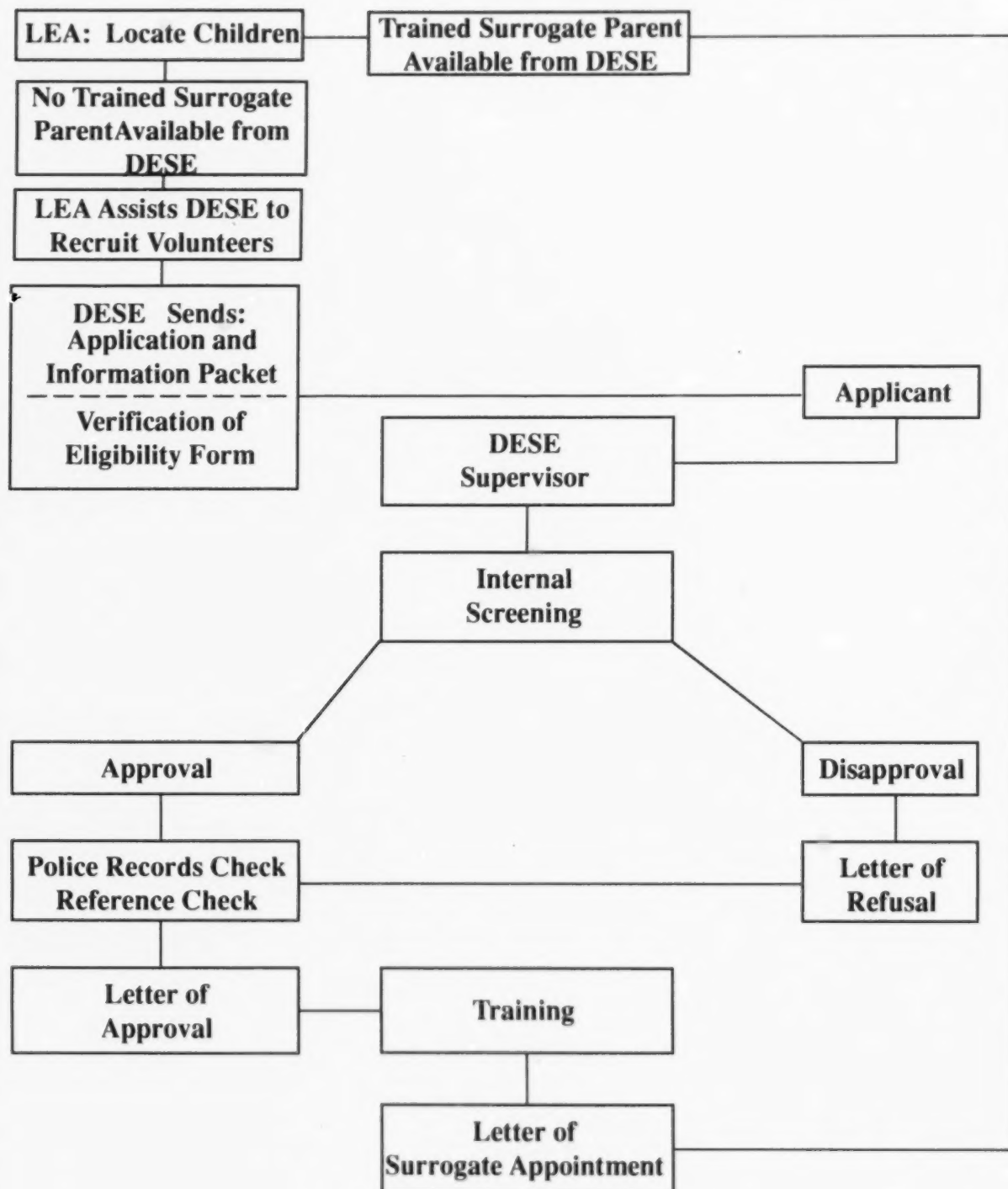
What Happens to the Surrogate Appointment When the "Providing District" Isn't the Same as the Student's Resident District?

The district actually providing educational services to a student is responsible for identifying individuals to serve as surrogates. In such cases, it is suggested that the providing district consult with the student's district of residence. If a surrogate parent had already been appointed for the student and the geographical distance is not too great, it may be logical for the previous surrogate to be appointed to continue to serve the student.

Could Surrogate Parents Incur Any Legal Liability?

Missouri provides that a person appointed to act as a surrogate parent shall be immune from liability for any civil damage arising from any act or omission in representing the child in any decision related to the child's education. This immunity shall not apply to intentional conduct, wanton and willful conduct, or gross negligence.

FLOWCHART FOR SURROGATE PROCEDURES



LEA Procedures to Determine Eligibility

The following procedures can help the LEA determine whether a student is without a parent, or is a ward of the state, and to determine eligibility:

- * Survey enrollment records of children receiving special education services to determine who has been signing consents to enroll.
- * Ascertain who in the past has participated in educational decisions for the child.
- * Contact care facility or agency responsible for the student to find out the status of the child's parents or guardian.

Examples: Department of Social Services
 Department of Mental Health
 Department of Corrections

- * Contact care facilities or agencies to inquire about possible referrals of children in need of surrogate parents.
- * Obtain child's records from agencies to document child's need for a surrogate parent.

LEA Procedures to Locate Parent

The following procedures should be used in a reasonable effort to locate a parent:

1. Documented phone calls;
2. Certified letters with return receipts; and/or
3. Visit to parents' last known address.

LEA RESPONSIBILITIES

REQUIREMENT	HOW TO	EXAMPLES
1. Will designate an LEA Surrogate Parent Program Coordinator. 2. Will determine if there are any students who may require a surrogate parent appointment. 3. Will complete and return to DESE a "Determination of Need for Surrogate Parent Appointment" form for each student believed to be eligible to receive a surrogate appointment. 4. Will assist DESE in recruiting surrogate parent volunteers, whose names and addresses will be sent to the Special Services Section of DESE.	❖ DESE supervisor will send to all LEAs a Surrogate Parent Program Coordinator Form. The purpose of this form is to establish for each LEA a person who will be responsible for overseeing the surrogate parent program in their district. It is the responsibility of the LEA to designate this individual. If the Form is not submitted, then the Special Education contact person will be presumed to serve in the capacity of a Surrogate Parent Coordinator. ❖ Determine if student is currently receiving, or is believed to be eligible for, special education and related services. ❖ Ascertain who is legally responsible for care and custody of the child. ❖ Run through checklist on form to document that child is in need, or is being referred for special education and that they are currently not in the care of a parent, someone acting as a parent, or a guardian. Attach a copy of documentation, if available, supporting student's eligibility. ❖ Disseminate information about the surrogate parent program and the need for volunteers through school bulletins, flyers, newspaper advertisements, radio announcements, community bulletin boards, parent teacher organizations, etc. Look into various community groups to use as recruiting pools.	❖ Director of Special Education. ❖ Director of Pupil Personnel. ❖ Director of Special Services. ❖ Review enrollment records of children receiving special education services. ❖ Contact care facility or agency responsible for child (Social Services, DMH, etc.). ❖ Use your program's Child Find activities to identify eligible children. ❖ Documentation declaring child a ward of the state. ❖ Records of attempts to contact the parent (e.g., returned certified letters). ❖ Documentation that the child has no identified parent or guardian, nor someone acting as parent. Contact community organizations such as: ❖ United Way volunteer recruitment programs. ❖ Local Associations for Retarded Citizens. ❖ Easter Seal Society. ❖ Missouri Parents Act (MPACT).

REQUIREMENT

HOW TO

EXAMPLES

5. Will be available to aid DESE with surrogate parent training.

- ❖ Select staff member(s) to assist with training.
- ❖ Arrange time, date, and location of training.
- ❖ Notify surrogate volunteers of training.

6. Will maintain contact with the surrogate parent following their appointment and recognize the surrogate as the student's legal educational representative.

- ❖ Direct all information pertaining to the student's education to the surrogate parent.

7. Will notify DESE of any changes or problems in the surrogate appointment.

- ❖ Contact DESE's Special Services Section.

8. Will complete an LEA Surrogate Parent Evaluation and return this form to DESE's Special Services Section.

- ❖ The LEA Surrogate Parent Program Coordinator will complete the LEA Surrogate Parent Evaluation on an annual basis for each surrogate parent. This evaluation may be completed at an earlier time if the LEA deems it necessary. It is through this form that the LEA will recommend either the continuation or termination of the surrogate parent appointment.

- ❖ Maintain a surrogate contact log on which teachers and staff members record all communications they have had with the surrogate parent.

Contact DESE's Special Services Section:

- ❖ If student reaches age 21;
- ❖ If student graduates;
- ❖ If student moves out of district; or
- ❖ If student is placed in foster care.

The LEA Surrogate Parent Evaluation shall be completed:

- ❖ At the close of the school year; or
- ❖ At any time during the school year if a situation arises in which the LEA feels an assessment of the surrogate parent is in order. (For example: the surrogate is not involved in the student's education program, or the surrogate parent must move out of the district and can no longer serve.)

DESE RESPONSIBILITIES

REQUIREMENT	HOW TO	EXAMPLES
1. Will monitor local compliance with federal and state surrogate parent regulations.	❖ DESE will have in place compliance standards by which its supervisors will monitor individual districts. These standards will reflect those set in this manual.	Supportive documentation would include: ❖ Copies of such forms as Determination of Need for Surrogate Parent, Surrogate Parent Application, LEA Surrogate Parent Contact, etc.; ❖ Copy of Surrogate Assignment Letter; and ❖ Copies of any documents signed by the surrogate parent.
2. Will distribute information packet to volunteers.	❖ DESE will receive names of volunteers from the LEA and will send each of them an information packet and necessary forms.	Sending packets containing: ❖ Surrogate Parent Application. ❖ Verification of Eligibility for Surrogate Assignment. ❖ Statement of Rights and Responsibilities. ❖ Procedural Safeguards Statement.
3. Will process surrogate parent applications.	❖ DESE supervisor will review application to determine if application contains complete information. ❖ DESE supervisor will determine if applicant meets both federal and state eligibility criteria. ❖ DESE supervisor will send a Letter of Disapproval to the applicant, based upon the outcome of the application process. ❖ DESE supervisor will send a Letter of Approval to the applicant, based upon the outcome of the application process. ❖ DESE supervisor will perform a police records check on applicants through the Missouri State Highway Patrol. ❖ DESE supervisor will complete reference check using names provided in the surrogate parent application.	❖ DESE supervisor will perform a police records check on applicants through the Missouri State Highway Patrol. ❖ DESE supervisor will complete reference check using names provided in the surrogate parent application.

REQUIREMENT	HOW TO	EXAMPLES
4. Will set up a training session with the help of the LEA and will provide training materials. 5. Will maintain a registry of persons who are willing to be appointed to act as surrogate parents. 6. Will send Letter of Appointment to surrogate parent. 7. Will provide additional technical assistance to the LEA as it is needed. 34	❖ Will contact LEA and determine how they would like to handle training. ❖ The surrogate parent registry will be created from applicants who have successfully met existing eligibility requirements and have participated in a surrogate parent training session. ❖ Letter of Appointment is sent to the surrogate parent to officially recognize the surrogate appointment. The letter also provides information regarding the student and the school which will help the surrogate to begin their representation of the student. ❖ The Special Services Section of DESE will field questions from the LEA and to provide the LEA with materials that may help them implement and maintain the surrogate parent program.	❖ DESE training will be assisted by the LEA, through the provision of a training room and other accommodations. ❖ DESE may sponsor and conduct a regional training, incorporating a wide area of LEAs and surrogate parents. The surrogate parent registry will include such information as: ❖ The surrogate's geographic location; ❖ The surrogate's experience with a particular disability; and ❖ Any second languages the surrogate may speak. ❖ The letter will include the student's name and should also include their age, grade, or classroom assignment and the student's particular disability. ❖ The letter will also include the name of the school that the child attends and should also include the name of a contact person at the school. ❖ Questions regarding eligibility of student to be appointed a surrogate parent. ❖ Questions regarding eligibility of an adult to serve as a surrogate parent. 35

Statement of Surrogate Parent Rights and Responsibilities

- I. Surrogate Parents have the same rights as natural parents and guardians in all aspects of identification, evaluation, and educational placement of the child and in the provision of a free appropriate public education. These rights are fully described in the procedural safeguards leaflet provided to all parents and available upon request from DESE.
- II. Surrogate Parent Responsibilities
 - A. Initial Responsibilities
 1. Will become familiar with Missouri's special education process and surrogate parent program by reviewing the various materials sent by DESE in the information packet;
 2. Will complete Surrogate Parent Application and Verification of Eligibility form, sent by DESE supervisor;
 3. Will participate in surrogate parent training;
 4. Will review surrogate parent materials received at the training;
 5. Will contact the student's school to make appointments to observe the child and to review the student's educational background.
 - B. General Ongoing Responsibilities
 1. The surrogate parent's responsibility is to act in the best interest of the child and includes:
 - a. Representing the child in the educational decision-making process;
 - b. Responding with approval or disapproval to request for educational assessment;
 - c. Initiating requests for assessment and reassessments;
 - d. Reviewing the pupil's educational records;
 - e. Complying with the state and federal laws in the areas of confidentiality of information;
 - f. Participating in IEP meetings, placement meetings, and other parent/school conferences;
 - g. Reviewing and monitoring child's educational program;
 - h. Initiating the complaint or due process procedure;
 - i. Representing the child in any due process hearing; and
 - j. Acting as the child's parent/advocate by requesting services or expressing concerns about services or lack of services.
 2. Will maintain a surrogate parent contact log in which they will record the student's progress, as well as the surrogate's participation in the student's education, such as keeping a record of:
 - a. I.E.P. meetings, conversations with the student's teacher, speech therapist, etc;
 - b. Dates of scheduled meetings, evaluations, etc; and
 - c. Phone numbers of the school administrator, occupational and physical therapist, etc.
 3. Will be responsible for notifying the LEA or DESE if any conflicts develop, or if they will no longer be able to fulfill their surrogate parent role.

Revised Statutes of Missouri

162.997. Surrogate appointed, when—state board of education, duties—definitions.—1. The state board of education shall:

(1) Establish and maintain procedures to appoint a person to act as a surrogate for the parent or guardian of a handicapped or severely handicapped child when:

- (a) The parents or guardian of the child are not known;
- (b) The parents or guardian of the child are unavailable; or
- (c) The child has been committed to the custody of a public agency or institution in accordance with section 211.181, RSMo;

(2) Establish and maintain procedures to recruit persons to act as surrogate parents for handicapped or severely handicapped children;

(3) Establish and maintain a list of names of persons who will undertake appointments to act as surrogates for the parents or guardians of handicapped or severely handicapped children;

(4) Provide the education and training necessary to ensure that a surrogate parent appointee has the knowledge and skills to act as an effective representative of a handicapped or severely handicapped child in all decisions relating to the child's education;

(5) Establish standards and procedures by which a surrogate parent may be removed from his appointment if:

- (a) He is not effectively representing the child; or
- (b) The parents or guardian of a child subsequently become known or available.

2. For purposes of sections 162.997 to 162.999, the following terms mean:

- (1) "Handicapped child" or "severely handicapped child" as defined in section 162.675;
- (2) "Parent" a biological parent, a guardian or a person acting as a parent of a child, including but not limited to a grandparent or stepparent with whom a child lives. The term does not include the state if the child is a ward of the state. The term does not include a person whose parental rights have been terminated.

(3) "Unavailable," a person is unavailable if his whereabouts are unknown after reasonable inquiry.

162.998. Board of education to be notified of need of surrogate, when, appointment, when.—1. Whenever a school district, special district, state agency or other political subdivision

responsible for providing education to handicapped or severely handicapped children is informed of a handicapped or severely handicapped child living within its jurisdiction, it shall, within thirty days, determine whether such a child is in need of a person to act as a surrogate parent. Not more than ten days after the determination that such need exists, the school district, special district, state agency or other political subdivision shall notify the state board of education in writing of its determination. Such notification shall be accompanied by all supporting documentation. Within thirty days of such notification, the state board of education shall appoint a person to act as a surrogate parent for the parent or guardian of the child.

2. Any person may advise a school district, special district, state agency or other political subdivision that a handicapped or severely handicapped child within its jurisdiction may be in need of a person to act as a surrogate parent.

162.999. Duties of surrogates, qualifications for appointment, evaluation by board, successor surrogates appointed, when—rights of surrogates—immunity from suits, exceptions—reimbursement for expenses—legal assistance and independent evaluations, rules.—1. Any person who is appointed to act as a surrogate parent shall:

- (1) Be at least eighteen years of age;
- (2) Be free of any interest that may conflict with the interests of the child represented; and
- (3) Not be an employee of the state board of education or any governmental entity having responsibility for the education or care of the child.

2. No person shall be appointed to act as a surrogate parent of a handicapped or severely handicapped child unless he has completed the requisite education and training to be provided by the state board of education.

3. The state board of education shall periodically evaluate the performance of persons appointed surrogate parents to ensure that such appointees are providing effective representation. Such periodic evaluations shall take place as often as is reasonably necessary to protect the interests of the particular child.

4. If a person appointed to act as a surrogate parent dies, resigns, or is removed, the state board of education shall, within fifteen days thereof, appoint a successor surrogate parent.

5. The person appointed to act as a surrogate parent for a handicapped or severely handicapped child shall represent the child in all decisions relating to the child's education including, but not limited to, the:

- (1) Identification of the child as one needing special educational services;
- (2) Evaluation of the child's need for special educational services;
- (3) Placement within the elementary and secondary educational system or within special programs offered by other state agencies responsible for providing special educational services;
- (4) Provision of a free appropriate public education for the child; and
- (5) Legal assistance necessary to protect the best interest of the child.

6. The person appointed to act as a surrogate parent shall have the same right to all information and records concerning the child, confidential or otherwise, compiled, prepared or maintained by any political subdivision or state agency as would the child's parents or guardian, provided that such records are necessary to represent the child effectively in decisions relating to the child's education.

7. The person appointed to act as a surrogate parent shall be immune from liability for any civil damage arising from any act or omission in representing the child in any decision related to the child's education. This immunity shall not apply to intentional conduct, wanton or willful conduct or gross negligence.

8. The person appointed to act as a surrogate parent shall be reimbursed by the state board of education for all reasonable and necessary expenses incurred as a result of his representation of a handicapped or severely handicapped child pursuant to sections 162.997 to 162.999. Standards for obtaining assistance and the provision of independent evaluations shall be established by rules promulgated by the state board of education. No person reimbursed pursuant to this section shall be deemed an employee of the state board of education.

SAMPLE FORMS

**SAMPLE DETERMINATION OF NEED FOR
SURROGATE PARENT APPOINTMENT**

To be completed by local education agency or public agency

Name of Pupil _____ Date of Birth _____
Grade/Assignment _____
Name of School _____ Teacher _____
Name of Caregiver _____
Address _____
Phone (Home) _____ (Business) _____
Relationship to Child (Specify) _____

Please check the appropriate box.

The child has been referred for a special education evaluation. ☐ Yes ☐ No

The child has been determined to be eligible for special education and related services. ☐ Yes ☐ No

Please check the appropriate box.

Basis for surrogate parent appointment:

No parent can be identified. ☐

The local education agency or public agency, after reasonable efforts, cannot discover the whereabouts of a parent. ☐

The child is a ward of the State. ☐

The information submitted herein is true and complete to the best of my knowledge. Submitted this _____ day of _____, 199____.

Signature _____ Date _____

To be completed by the Department of Elementary and Secondary Education

Based upon the information submitted herein, it is determined that a surrogate parent:

_____ must be appointed

_____ does not need to
be appointed

Supervisor, Surrogate Parent Training

Date

SAMPLE SURROGATE PARENT APPLICATION

Name _____ Date _____
Home Address _____
Home Phone _____ Work Phone _____
Date of Birth _____ State of Birth _____
Occupation _____ Social Security No. _____
Employer's name and address _____

Education (circle grade of school completed) 1 2 3 4 5 6 7 8 9 10 11 12, College or Technical
School 1 2 3 4 Masters, Ph.D., Other _____

Are you available to attend meetings during the day? _____ Yes _____ No

Other times available _____

Do any children in your care have disabilities? _____ Yes _____ No

Specify _____

List any educational, volunteer, work, or other related experience in the area of Special Education
and/or youth _____

Do you have any preferences as to the type of children with disabilities you are willing to repre-
sent? _____

With which school districts are you available to work? _____

Indicate any language other than English that you speak fluently _____

Do you use sign language? _____ Yes _____ No

List two references (other than relatives) who have known you at least two years:

Name	Address	Phone
1. _____	_____	_____
2. _____	_____	_____

Signature _____ Date _____

Please return this application to the Section of Special Services

**Sample Surrogate Parent Verification of
Eligibility for Appointment**

Name of Surrogate

Child's Name (if applicable)

Address

Phone Number

Relationship to Child

I verify that I meet the following criteria deemed necessary by state and federal regulations to ensure each child with a disability appropriate representation in all matters relative to the identification, evaluation, and educational placement of the child and in delivery of a free appropriate public education:

Please check the appropriate box:

___ Yes ___ No Are you at least 18 years of age?

___ Yes ___ No Do you have an interest that conflicts with the interest of the child you are to represent?
(See reverse side.)

___ Yes ___ No Are you an employee of any public agency which involves the education or care of children with disabilities?

___ Yes ___ No Did you receive notice of the federal and state rules and regulations regarding education of children with disabilities and do you have a general understanding of the content?

___ Yes ___ No I have read and understand the statement of rights and responsibilities associated with my role as a surrogate parent.

___ Yes ___ No I am willing to participate in surrogate parent training.

Signature

Date

Return to: Department of Elementary and Secondary Education
Division of Special Education
Section of Special Services
P.O. Box 480
Jefferson City, Missouri 65102

Section 162.999 of the Revised Statutes of Missouri (Supp. 1990), the state law on surrogate parents, provides, in part, that any person who is appointed to act as a surrogate parent shall be free of any interest that conflicts with the interests of the child represented.

The term "conflict of interest" has been explained as follows:

A person has a conflict of interest if he or she holds a job or other position (i.e., school board member) that might restrict or bias his or her ability to advocate for all of the services needed by the child. One example would be an employee of an agency that would have to pay for some or all of the services a child might need. A surrogate parent must be free from institutional bias regarding the education of the child and from the possibility of administrative retaliation for the faithful execution of his or her rights and duties as a surrogate parent. Kirk 2 EHLR p. 211:243 (EHA 1980).

Surrogate parents may not be employees of public agencies involved in the education or care of children with disabilities. This includes employees of the State Education Agency, Local Education Agency, State Board-Operated Programs or Facilities, and state or county Departments of Social Services.

LEA Surrogate Parent Evaluation

Name of Surrogate Parent

Name of School

Name of Student

Date of Appointment

Please answer the following questions to the best of your knowledge. Brief explanations are helpful in recording an accurate evaluation of the surrogate parent's performance.

The surrogate parent has made appropriate attempts to become familiar with the student:

- * The surrogate parent has reviewed the student's educational records. _____

- * The surrogate parent has observed the student in the classroom. _____

- * The surrogate parent has kept in contact with school staff members on the student's progress. _____

- * The surrogate parent has developed what you believe is a good understanding of the student and his or her educational needs. _____

- * The surrogate parent has attended both formal and informal school meetings and conferences involving the student. _____

Based on the above criteria it is my recommendation that this surrogate appointment be continued _____ terminated _____. A written statement must be provided to support a recommendation of termination.

Signature, LEA Surrogate Parent Contact

Date

Return to: Department of Elementary and Secondary Education
Division of Special Education
Section of Special Services
P.O. Box 480
Jefferson City, Missouri 65102



Missouri Department of Elementary and Secondary Education
P.O. Box 480, Jefferson City, Missouri 65102